

MC/23/2572

Date Received: 16 November 2023
Location: 20 Milburn Road, Gillingham, Medway ME7 1PH
Proposal: Construction of a single storey extension to rear, single storey extension to side, insertion of dormer to side/ rear and roof lights to front, to facilitate the change of use from dwellinghouse (Class C3) to 7 person House in Multiple Occupation (Sui Generis).
Applicant: Mr Sullivan
Agent: HMO Designers
Miss Zofia Kracinova
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Ward: Gillingham North
Case Officer: Amy Shardlow
Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 14th February 2024.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 16 November 2023:

HD0035-PL-008 Proposed Block Plan
HD0035-PL-006-Rev C Proposed Side Elevations
HD0035-PL-005-Rev C Proposed Elevations and Section
HD0035-PL-004-Rev C Proposed Floor Plans
Site Location Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 All materials used externally shall match those of the existing building.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 4 No part of the development shall be occupied until a Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Parking Management Plan shall contain details of how residents and their visitors will be deterred from parking on street. The Parking Management Plan shall be implemented in accordance with the approved details prior to the first occupation of the development and shall thereafter be retained.

Reason: To ensure satisfactory parking in accordance with Policy T13 of the Medway Local Plan 2003.

- 5 No part of the development shall be occupied until details of secure cycle storage facilities, and sufficiently wide access routes between the storage facilities through to the front of the site, have been submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities shall be implemented in accordance with the approved details prior to first occupation and thereafter retained.

Reason: To ensure satisfactory cycle storage in accordance with Policy T4 of the Medway Local Plan 2003.

- 6 Notwithstanding the submitted drawings, prior to occupation of any part of the residential development, details of the refuse storage area at ground floor level to provide at least 3no. bin equivalent plus recycling storage shall be submitted to and approved in writing by the Local Planning Authority. The refuse storage shall be implemented in accordance with the approved details before any part of the residential development is occupied.

Reason: To ensure that the development does not prejudice the amenities of future occupants in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 7 The house of multiple occupation hereby approved shall be occupied by a maximum of seven people.

Reason: To regulate and control the number of occupants of the property in the interests of the amenities of neighbouring properties and of future occupants of the site, due to limited communal facilities, in accordance with Policy BNE2 of the Medway Local Plan 2003.

For the reasons for this recommendation for Approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This application seeks planning permission for the construction of a single storey rear extension, a single storey side extension and insertion of dormer to rear and roof lights to front, to facilitate the change of use from dwellinghouse (Class C3) to 7 person House in Multiple Occupation (HMO) (Sui Generis).

The proposed single storey side/rear extension projects approx. 2.1 metres from the ground-floor rear elevation, and the proposed single storey rear extension projects approx. 3 metres from what appears to be the original dwelling house.

The basement is retained as a basement area, with the ground floor comprising of two bedrooms each with ensembles and then an open plan kitchen/dining room. The first floor would comprise of three bedrooms each with ensembles. The second floor comprises of two bedrooms and two bathrooms.

Access to the rear garden would be via the kitchen/dining/living room located at ground floor level.

Relevant Planning History

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| MC/23/1738 | Application for a Lawful Development Certificate (Proposed) for the construction of a single storey extension to the rear; single storey extension to the rear/side; L shaped dormer to the rear with a roof light to proposed dormer and 3 roof lights to the front to facilitate the conversion of C3 Dwellinghouse to C4 HMO.
Decision: Approval
Decided: 8 November 2023 |
| MC/07/0496 | Lowering of land levels in front and part of rear garden to facilitate conversion of basement into habitable accommodation and provision of off-road parking to rear.
Decision: Approval with conditions
Decided: 22 May 2007 |
| MC/06/0338 | Lowering of land levels in front garden and part of rear garden to facilitate conversion of basement into habitable accommodation.
Decision: Refused
Decided: 21 April 2006 |
| GL/97/0328 | Proposed erection of raised shed, covered lower storage area, access steps and boundary wall.
Decision: Approval with conditions |

Decided: 14 July 1997

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

3 letters of representation have been received. The representations have the following comments:

- Potential noise concerns.
- Potential for anti-social behaviour.
- Working hours for construction works and access arrangements.
- Dormer impact.
- Parking concerns.
- Reduction in garden size.
- Overlooking from dormer.
- Loss of light concerns.

Southern water has advised that the drawings show that the developer is intending to build close to a public foul sewer which is crossing the site and have advised that building over a public sewer is not normally permitted by Southern Water. An investigation of the sewer is required to confirm its size and depth, ascertain its condition, number of properties served and potential means of access before any decision can be made as to whether it would be acceptable for Southern Water to allow building-over the sewer.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework December 2023 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Background

As listed in the relevant planning history, application MC/23/1738 was for a Lawful Development Certificate (LDC) (proposed) for the construction of a single storey extension to the rear; single storey extension to the rear/side; L shaped dormer to the rear with a roof light to proposed dormer and 3 roof lights to the front to facilitate the conversion of C3 Dwellinghouse to C4 HMO. As this was an application for an LDC the matter was dealt with on the basis of an assessment of the permitted development rights. The application was approved on 8 November 2023.

As the above-mentioned development has not been implemented, this application considers those works that were subject to the LDC application (rear and side extensions, dormer and use as a 6-bedroom HMO) and the addition of an extra bedroom with ensuite within the ground floor area of the building.

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The NPPF seeks to pursue sustainable development, in a positive way through a presumption in favour of sustainable development, unless the paragraphs within the NPPF provide clear reasons for refusing development, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (paragraph 11). Paragraph 60 of the NPPF also seeks to boost the supply of housing by bringing forward a variety of land to meet specific housing requirements.

The proposed site is located within the urban area of Gillingham. Policy H7 of the Local Plan refers to houses in multiple occupation, saying that they will be permitted subject to certain criteria:

- Property is in a mixed character area.
- Increased traffic would not be detrimental to amenity.
- The property is detached, or the use would not adversely affect amenity.
- Where not detached, there are other HMOs in close proximity.
- The property is too large to be used for family accommodation.

In the current case, although the site is not in a predominantly mixed-use area and is mainly residential, at the end of this road onto Richmond Road there are a variety of other uses including a hot food takeaway, a barbers and a pharmacy. It is also noted that there are many other HMOs within the immediate vicinity with 2 located already on Milburn Road.

Although the property is not detached and could still be occupied by a single household, the fallback position is that the property can be converted to a 6 bed HMO with extensions to facilitate that, without the need for planning permission. As such the change of use to a 7 bed HMO is considered acceptable in principle.

Design

Paragraphs 131 and 135 of the NPPF emphasise the importance of good design and Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area.

The proposal includes the insertion of three rooflights within the front roof slope of the building, a large “L” shaped dormer to the rear roof slope and a single storey flat roofed rear extension and single storey flat roofed side extension. The single storey rear extension would be considered modest in scale and although flat roofed, which is not ideal, would only be viewed from neighbouring properties and gardens. Similarly, the single storey extension to the side is flat roofed and is modest in scale with little impact on the appearance of the host dwelling or area due to its scale and siting.

The dormer to the rear is considered large in scale and would dominate the roof slope of the dwelling and could be considered to be harmful to the appearance of the host property and character of the area. However, the proposed dormer is the same as that which was subject to a lawful development certificate and therefore, could be constructed under permitted development rights. On that basis alone it is not considered that a decision to refuse on design grounds related to the dormer would be upheld on appeal and no objection is therefore raised to this element. The rooflights are considered to be acceptable in terms of scale and design.

Overall, on balance, and reflecting on the fallback position in terms of what can be secured under permitted development, it is considered that the development would be in accordance with Policy BNE1 of the Local Plan and paragraphs 131 and 135 of the NPPF.

Amenity

There are two main amenity considerations, firstly the impact of the proposal on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and paragraph 135f of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

It is not considered that the dormer or rear and side extensions would have a detrimental impact on neighbouring amenity in terms of loss of daylight, sunlight, outlook, due to the location and scale of these extensions. The dormer window would introduce some further mutual overlooking above that already experienced from first floor windows to the rear gardens of neighbouring properties, however, this would not be at a level that would be considered unacceptable. Whilst there is likely to be some increase in comings and goings to the property, it is not considered that this would be to a demonstrable level to justify a refusal of planning permission in terms of harm to residential amenity, reflecting how many people could both occupy it as a single dwelling as well as the fall-back position of a 6 bed HMO as per the LDC decision.

A condition is recommended to restrict the number of occupants within the property to seven in order to control the noise and disturbance further occupants may have on the neighbouring residential amenity.

Amenity of Future Occupiers

The proposal has been considered against the technical housing standards - nationally described space standard dated March 2015 (the national standard). However, the room sizes/space requirements for HMO bedrooms fall under different requirements/legislation to which Medway Council follows Shelters guidance for HMO room sizes which outlines that rooms should be a minimum of 6.51 square metres for a person aged 10 or over. All proposed bedrooms would either meet this standard or exceed it.

It is noted that one of the bedrooms could be considered a double room, as such a condition is to be recommended to restrict the number of occupants.

One of the bedrooms within the roof space would receive its daylight, sunlight and outlook from three rooflights. These rooflights would be located at a height that would provide suitable outlook for the future occupant of the room and would also provide adequate daylight and sunlight.

The communal living/dining/kitchen room would measure approx. 22m². The future occupants would also have access to a basement area and a rear garden area which would provide suitable private amenity space.

Overall, with the abovementioned condition imposed, it is considered that the proposed extensions and conversion to an HMO would not cause significant harm in terms of neighbouring and future occupants' amenity and would be in accordance with Policy BNE2 of the Local Plan and paragraph 135f of the NPPF.

Highways

Policy T1 of the Local Plan relates to the assessment of the highways impact of development and outlines the criteria of when development would be permitted. Policy T13 of the Local Plan provides guidance on vehicle parking standards. Paragraph 115 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The existing property does not benefit from any off-street parking and no parking is proposed as part of the application. It is however considered that given that nearby bus stops on Richmond Road and Medway Road provide access to local bus services, and the town centre is in close proximity, the development has good links to public transport and as such is considered to be a sustainable location. The development may still increase parking demand and due to the parking restrictions on the street a condition is therefore recommended for a parking management scheme to be submitted.

Cycle storage is indicated on the proposed plans however it is not clear how these spaces would be provided and therefore a condition is recommended to provide further cycle storage details.

Subject to the recommended conditions the proposal is considered to be acceptable in highway terms and in accordance with Policies H7, T1, T4 and T13 of the Local Plan and paragraph 115 of the NPPF.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £314.05 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway, and Swale Estuaries. This tariff should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation).

These strategic SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. Further information regarding the work being undertaken is available at The Bird Wise website which can be found at <https://northkent.birdwise.org.uk/about/>.

The applicant has confirmed that subject to approval of the application the SAMMS Mitigation Contribution Agreement and payment will be paid and agreed, therefore subject to this no objection is raised under Policies S6 and BNE35 of the Local Plan and paragraphs 186 and 187 of the NPPF.

Conclusions and Reasons for Approval

The principle of the conversion of the property to a 7-bedroom (7 person) HMO (Sui Generis), is acceptable reflecting on the character of the area, the need for such accommodation and reflecting on that it could be converted to a 6 bed HMO without the need for permission. In terms of the extensions, the rear extensions will not be harmful and while the roof extension is not considered well designed and would be harmful to both the character of the existing property and wider area, as it could be constructed under permitted development it is not considered that a decision to refuse on this ground alone would be upheld on appeal. The proposed development would respect existing and neighbouring residential amenity, and there would be no additional unacceptable impact on highways or parking. The proposal would comply with the provisions of Policies BNE1, BNE2, BNE35, H7, S6, T1, T4 and T13 of the Medway Local Plan 2003 and paragraphs 11, 60, 115, 13, 135(f), 186, and 187 of the NPPF, therefore, is considered acceptable.

The application would normally be determined under delegated powers but is being referred to Committee due to the extent of the representations received expressing a view contrary to the recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>